

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

BARTON RILEY SHAFER,

Defendant and Appellant.

C068410

(Super. Ct. No. CRF11102)

Pursuant to a plea bargain, defendant Barton Riley Shafer pled guilty to driving under the influence and admitted two prior driving under the influence convictions.

Defendant was sentenced to state prison for the upper term of three years based upon, inter alia, his being on parole when the present offense was committed and his prior convictions being numerous (40 convictions, five of which are felonies). The court awarded defendant presentence custody credit of 196 days (98 actually served plus 98 conduct) and imposed the various fines and/or fees as set forth in detail in the abstract of judgment.

FACTUAL BASIS FOR PLEA

On February 15, 2011, about 1:00 a.m., a Marysville police officer observed defendant driving through town at a high rate

of speed. The officer contacted defendant when he double parked his vehicle between two parking spaces. Defendant stated he had been drinking and his license had been suspended. Defendant was administered blood-alcohol tests which registered .087 and .085 percent.

DISCUSSION

Defendant has appealed and counsel has been appointed to represent him. Counsel filed an opening brief that sets forth the facts of the case and asks us to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. We have undertaken an examination of the record and find no arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The judgment is affirmed.

ROBIE, Acting P. J.

We concur:

BUTZ, J.

MAURO, J.